

Attorney Docket No.: J3728(C)
Serial No.: 10/569,331
Filed: February 21, 2006
Confirmation No.: 3151

REMARKS

Claim 1 has been amended to further identify the composition as comprising from 6 to 20 wt.% of anionic surfactant, and to clarify that the composition comprises at least two salts selected from the described group, with said at least two salts being further described as comprising a salt pair selected from a particular list of materials. See, for example, page 2, last full paragraph to page 3, first full paragraph, and page 5, second full paragraph. Claim 1 has been further amended to describe the composition as being in the form of a shampoo; see for example, the last paragraph of page 11 to the first paragraph of page 12. Claim 2 has been amended to specify that the composition comprises co-surfactant, and claim 3 (depending from claim 2) has been amended to specify that the co-surfactant is present in the composition an amount of from 1 to 4 wt. %. See, for example, page 5, third full paragraph. Claims 4 to 6 have been cancelled without prejudice. Entry of the subject amendments is respectfully requested.

The pending claims stand rejected under 35 U.S.C. 103(a) over the combination of WO 03/26599 (WO '599) and WO 99/15135 (WO '135). This rejection is respectfully traversed.

The subject invention is directed to shampoo composition that includes from 6 to 20 weight percent of anionic surfactant and a particular combination of salts, which compositions are found to provide a desirable combination of conditioning and to aid in straightening (e.g., lengthening hair). It is noted that comparative Example A of the subject application is a shampoo composition that includes citric acid (albeit at a relatively low level, i.e., 0.09 wt. %) and sodium chloride, but that contains no tartrate, sulphate or thiocyanate. Example 1 is a shampoo composition which contains, in addition to citric acid and sodium chloride at the levels as in Example A, a combination of sodium tartrate and sodium sulfate. The subject specification reports that in a panel

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test, the Example 1 shampoo was demonstrated to provide better hair lengthening and conditioning to hair than the Example A shampoo.

WO '599 is directed to personal cleansing compositions that include certain silicone resin-containing additives. The Examples of WO '599 are shampoos and body washes that include citric acid but no sulphates, thiocyanates, or tartrates.

WO '135 is directed to hair styling compositions that contain, among other components a relatively small level of surfactant (from 0.01% to 0.5% by weight), together with a friction enhancing agent that is a water soluble, non-polymeric mineral salt. Regarding the use of mineral salt WO '135 states:

Without being limited by theory, it is believed that when the water soluble, non-polymeric mineral salt is solubilized and the resultant solution applied to (and dried on) the hair, the water soluble salt beings to precipitate onto the surface of the dry hair increasing the hair's overall surface friction, thus improving styling volume and fullness. See page 5, beginning in the middle of the third full paragraph.

The Office Action maintains:

WO'135 teaches hair styling compositions and teaches non-polymeric mineral salts...WO '135 teaches inorganic salts and organic salts and this includes claimed sodium sulfate. WO '135 under examples 3-4 teaches two salts. WO '135 does not teach claimed sodium tartrate however WO teaches the salts can be citrate or lactate. These two organic salts are derived from hydroxyl carboxylic acid. Claimed tartrate is also a salt derived from hydroxyl carboxyl acid. WO '135 also teaches anionic surfactant...

Accordingly it would be obvious to one of ordinary skill in the art at the time the invention was made to prepare rinse of [sic] compositions taught by WO '599 by having anionic surfactant and carrier and include sodium salt taught by WO '135 and also include another sodium organic salt which is sodium tartrate since WO '135 suggests adding hydroxyl carboxylic salts like citrate and lactate. See page 4 of the Office Action of November 27, 2009.

Example 3 of WO '135 is a hair lotion that includes magnesium sulfate heptahydrate and citric acid, and Example 4 is a hair spray that includes magnesium sulfate hetahydrate and citric acid.

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Compositionally, the hair styling compositions of WO '135 are very different from the shampoo compositions and body washes of WO '599. From the description in its specification, the benefit of the salts employed in the WO '135 compositions arises from their being applied from a composition that remains on the hair, as opposed to shampoo compositions that contain deterative amounts of cleansing surfactants, which compositions are employed to clean the hair and then are removed by rinsing. The compositions and applications of the WO '599 and WO '135 being very different, it is respectfully submitted that selectively picking ingredients from the WO '135 compositions and incorporating them in the WO '599 compositions is mere hindsight suggested only by the instant invention. Moreover, even if combined, it is respectfully submitted that the resulting combination fails to reasonably disclose or suggest the use of the instantly claimed salt combinations in shampoo compositions or the benefits of such combinations in a shampoo composition as a means of providing a composition that imparts a desirable combination of conditioning and hair straightening properties. In short, it is respectfully submitted that the Office Action fails to establish a prima facie case of obviousness.

In light of the above amendments and remarks, reconsideration and allowance of the subject application is respectfully requested.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney kindly requests the Examiner to telephone at the number provided.

Respectfully submitted,

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